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COMMITTEE ON THE RIGHTS OF THE CHILD

Twelfth session

SUMMARY RECORD OF THE 298th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 28 May 1996, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

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Initial report of China

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of China (CRC/C/11/Add.7; CRC/C.12/WP.5; HRI/CORE/1/Add.21)

1. At the invitation of the Chairperson, Mr. WU Jianmin, Ms. WANG Fengla Mr. FU Guoliang, Ms. ZHANG Honghong, Mr. LIU Xinsheng, Ms. WANG Yuehua, Mr. LI Yong, Ms. ZHAI Xiaoyun, Mr. XUE Chunxi, Ms. LI Bing, Mr. REN Yisheng Mr. DU Zhenquan, Ms. DONG Zhihua, Mr. DING Qiwen and Ms. CAI Sheng (China) took places at the Committee table.

2. The CHAIRPERSON, after welcoming the Chinese delegation on behalf of Committee, invited the head of the delegation to introduce the initial repo of China (CRC/C/11/Add.7).

3. Mr. WU Jianmin (China) thanked the Chairperson for her words of welco and expressed the hope that there would be a fruitful and constructive dialogue between the members of the Committee and the members of the Chines delegation, on which not only many ministries and public bodies but also non-governmental organizations (NGOs) were represented.

4. China had taken an active part in drafting the Convention on the Rig of the Child, which it had ratified on 29 December 1991 and which it had b implementing conscientiously since the Convention's entry into force on 1 April 1992.

5. More than 20 ministries, public bodies and NGOs had spent two years preparing the initial report of China in strict accordance with the Committee's guidelines, with the help of valuable assistance from the UNIC China Office.

6. In April 1996, the information office of the State Council of China issued a White Paper on the situation of children in China, which had been widely reported in the media. An English version of the White Paper, whic dealt with the rights of the child, particularly in the areas of health an education, had been distributed to the members of the Committee.

7. The Chinese legislature attached great importance to the protection children, as shown, in particular, by the laws on marriage, compulsory education, the protection of disabled persons, the protection of minors, maternal and infant health care, the prevention of infectious diseases and adoption. A large number of administrative measures had also been taken t promote the rights of the child. For example, the State Council had set up the Committee on Women and Children; which was responsible for the coordination of women's and children's affairs at the national level. At the local level, similar bodies had been set up to protect the rights and interests of the child.

8. On 16 February 1992, the State Council had approved the Programme Ou for the development of China's children in the 1990s, whose aims included reduction by a third in the mortality rates of infants and children under

the year 2000, and which had inspired local authorities to set up their own child development programmes, which had already recorded remarkable progress.

9. On the question of children in conflict with the law, China put the emphasis on education, help and reform. Public security bodies and the courts took full account of the physical and psychological characteristics of juvenile delinquents and respected their personality and dignity.

10. It was an arduous task for a developing country with a population of 1.2 billion people to guarantee the health and happiness of its 300 million children. That was why the State did all in its power to improve the situation of children. According to The State of the World's Children 1996 report by UNICEF, China compared well with most developing countries in terms of, for example, mortality rates, nutrition, health care and education. Of course, there was still room for improvement. For example, it was acknowledged that some children in certain regions were not receiving schooling, children were still occasionally being sold or abducted and some parents abandoned their girl children. Those practices could be explained by poverty (65 million people were still living below the poverty line) and by the persistence of feudal and backward thinking. Nevertheless, the Chinese Government believed that economic and social progress would allow those bad practices to be gradually remedied.

11. In conclusion, he paid tribute to the Committee for its work on behalf of children, and repeated the Chinese Government's commitment to the promotion and protection of the human rights set forth in the international instruments.

12. The CHAIRPERSON thanked the head of the Chinese delegation for his statement and invited the delegation to reply to the Committee's questions on general measures of implementation of the Convention contained in document CRC/C.12/WP.5.

13. Mr. WU Jianmin (China) pointed out that the Chinese Government had sent the Committee a document in Chinese several weeks earlier, containing detailed responses to all the Committee's questions in the list of issues to be taken up. To save time, he would therefore restrict himself to summarizing those answers.

14. With respect to question 1, he cited the following declaration made by China upon ratifying the Convention: "The People's Republic of China shall fulfil its obligations provided by article 6 of the Convention to the extent that the Convention is consistent with the provisions of article 25 concerning family planning of the Constitution of the People's Republic of China and with the provisions of article 2 of the Law of Minor Children of the People's Republic of China" (see doc. CRC/C/2/Rev.4, p. 14). He said that the declaration had been dictated by the economic and social situation in China and that steps would be taken in due course to adjust it.

15. In relation to question 2, on the implementation of the Convention by the courts, he drew attention to the fact that the provisions of Chinese legislation on the administration of juvenile justice were fully consistent with the relevant provisions of the Convention and that there was therefore no need to invoke the specific provisions of the Convention in the courts.

16. The State Council Committee on Women and Children (question 3) was an advisory body responsible for coordinating and intensifying the action to benefit women and children taken by the relevant government services, as well as by similar bodies set up by provinces, autonomous regions and municipalities directly responsible to the central authority (see paras. 9-1 of the report). That Committee saw to the judicious allocation of tasks to the various relevant departments and bodies, established priorities, encouraged the exchange of experience and information, and issued regular reports on its activities.

17. He stated that NGOs were known in China as mass, civic or social organizations, and they cooperated closely with the Government. For example the Committee on Women and Children, which came under the State Council, was made up of representatives of 16 Government departments and various NGOs, including the All-China Youth Federation, the All-China Women's Federation a the Scientific and Technological Association of China. The main organizatio of that kind taking care of the welfare of children were the Commission for the Social Welfare of Children, the Chinese Association for Social Welfare (which had distributed 100 million yuan during the previous 2 years, mainly associations for orphans or disabled children), the Chinese Association of Social Workers and the Chinese branch of SOS Children's Villages. Finally, the Chinese Organization for Social Welfare dealt with maternal and child health and had set up various leisure activities.

18. In reply to question 5, on the possible establishment of a national institution such as an ombudsperson for children, he stressed that China ha set up the Committee on Women and Children under the State Council for that very purpose.

19. In reply to question 6, concerning measures taken to implement article 4 of the Convention, he said that the local authorities in both the underdeveloped and developed regions were implementing social welfare plans and that expenditure on social services was linked to the average standard living of the local population. The social welfare credits allocated by lo authorities had increased by 56.6 per cent in 1993, 31.4 per cent in 1994 a the 27.4 per cent in 1995. The local authorities were thus able to provide for the basic needs of children in the care of institutions and social services. Furthermore, private individuals supplied the social services wi clothes, medicines and toys for children.

20. In answer to question 7, on the availability of the Convention in minority languages, he said that the Convention had not yet been translated into those languages. However, legislation on the protection of children a women and laws which reflected the spirit of the Convention, particularly those concerning the protection of minors and women, had been translated in Mongolian, Tibetan, Kazakh and Korean.

21. With respect to question 8, on measures being taken to introduce the Convention to local and central government officials amongst others, he sa that future officials received appropriate training to ensure that they respected and protected the interests of citizens, including children, in carrying out their duties. Thus, after China's ratification of the Convention, the Ministry of Justice had organized a seminar and a one-mont

training course for police officers assigned to rehabilitation centres for juveniles, so that the latter would be informed about the provisions of the Convention. Furthermore, the Supreme People's Court had organized two training courses, in August 1992 and May 1993, for 200 judges from various law courts; the judges, from 30 provinces, municipalities and autonomous regions, had studied the principles and provisions of the Convention in the light of legislation on the protection of minors.

22. With respect to question 9, on the extent to which the national news media had been used to publicize China's initial report, particularly in remote areas of the country, he said that the report had been distributed to the State bodies responsible for the protection of the rights of the child and to organizations working in the areas of health, education and the protection of women and children. On Universal Children's Day at the beginning of 1995, after the report had been submitted, national radio had broadcast a special programme on the protection of children and had introduced the Convention and the legislation concerning children to its listeners. Also, a White Paper on the implementation of the Convention had been issued and made available to the members of the Committee.

23. The CHAIRPERSON thanked the head of the Chinese delegation for his statement, which revealed the means adopted by the Government to implement the Convention despite the difficult situation of children in certain regions and despite various harmful traditional practices. She invited members of the Committee to put further questions to the delegation.

24. Mrs. BADRAN requested more details on the mechanisms set up in China to follow up and coordinate the implementation of the Convention. She asked for further information on the administrative rank of the head of the Committee on Women and Children and on the composition of the membership of the Committee. She wished to know how the Committee ensured that its decisions were respected. She also inquired about the Committee's procedure for giving financial aid to the various public departments which implemented its recommendations, and asked what were its priorities for action. To what extent did NGOs participate in the work of the Committee, and on what criteria was their participation based?

25. She had been to China on several occasions and had been able to make contact there with the Women's Federation of China, which was not really a NGO in her eyes, but rather a quango. She asked if that was true of other supposed NGOs. She also wished to know how, and to which bodies, the funds collected by those organizations, notably by way of lotteries, were distributed.

26. Mrs. KARP welcomed the considerable progress made by the Chinese Government in the protection of children and the defence of their rights. However, with respect to the reservation China had expressed concerning the Convention, she requested clarification on the nature of the provisions of article 2 of the Protection of Minors Act, pointing out that article 6 of the Convention was open to a broad interpretation. At all events, she hoped that the reservation was not intended to allow the Chinese Government to implement policies which would be harmful for children, in the context of birth-control

measures. The fate of unplanned children would then be at stake. She welcomed the Government's willingness to make the appropriate changes to that reservation, and she asked for further information on those changes.

27. In relation to question 2, she asked how the Supreme People's Court was able to remain independent in its judgements on politically sensitive matters when it was responsible to the State Council, itself a political body. She also wished to know whether individuals and children, whatever their age, could apply directly to the Court to seek redress for violations of their rights.

28. In relation to question 6, concerning the provision of social services amongst other things, she wished to know if there was a mechanism or legal provision to oblige local authorities to take all necessary measures, particularly those of a budgetary nature, in order to implement article 4 of the Convention. She also asked if there was a mechanism to ensure the equitable distribution of resources allocated by the local authorities so as to help children who came under different authorities, and what the national Government could do to avoid disparities.

29. Mrs. SANTOS PAIS, while noting that China's report gave a very detailed description of the situation in terms of the legislation, said she thought more precise information could be supplied on specific cases of the implementation of the legislation. She noted the progress which had been achieved, particularly with regard to children's immunization, the establishment of coordinating and monitoring mechanisms for the rights of the child and the preparation of a national programme of action, but she found, a did the authors of the report themselves, that some negative points remained. In that respect, she referred to those parts of the report that mentioned the persistence of harmful traditions and beliefs which sometimes led parents to abandon, not to say murder, girl children (para. 102), to bring their childre up badly (para. 106), or even not to send their children, especially girls, t school.

30. In the light of the delegation's statement that there was no need to invoke the Convention in the courts since domestic legislation was fully in conformity with the provisions of the Convention, she asked why the reservation expressed by the Chinese Government could not be dropped. In any event, it would be interesting to know how long the Chinese authorities intended to retain that reservation. She also asked if the Chinese authorities had made a detailed assessment of the full impact of the Convention on domestic legislation. For example, had they ensured the compatibility between the Convention and the texts issued at national and provincial levels and, particularly, at the local level, where it was especially difficult to monitor the implementation of the Convention? It would, after all, be easy to invoke the Convention in the courts, as it was stated in the core document (HRI/CORE/1/Add.21, para. 53) that in the event discrepancies between the Convention and domestic law the Convention would take precedence.

31. It was repeated several times in China's report that the Constitution a the law recognized the rights of citizens in general. She asked if that mea that children who did not have Chinese citizenship, such as children who wer

stateless, refugees or asylum-seekers, did not enjoy the protection of the rights laid down in the Convention. Lastly, she requested details on the way in which funds for the priority areas mentioned in the report were distributed between the various levels of government, and on the steps taken to close the gap between towns and rural areas in matters of funding.

32. Miss MASON, returning to question 7 on the list of issues (CRC/C.12/WP.5), asked how long it would take to translate the Convention into the most important minority languages, particularly those mentioned in the report. It would also be interesting to know to what extent the action to disseminate the Convention among minorities, including the use of radio programmes mentioned by the delegation, was achieving its objective. It did in fact seem as though, despite the provisions of the Convention and domestic law, Chinese remained the obligatory language for communication, in both the education and the legislative systems.

33. She welcomed the training on the Convention given to representatives of the judicial system in China, and inquired what training was provided to people working with children in the social sector. In particular, she asked about the situation regarding the implementation of training programmes in rural areas, where the population was often totally unaware that it had any rights. Finally, she wished to know exactly what contribution the organizations representing children had made to the preparation of the report, as she was not convinced that they had really participated sufficiently.

34. Mrs. SARDENBERG asked for details on the methods used to ensure that priority was given to children, as required by the Convention, in the overall development policy of the country. She also inquired whether there was an administrative body to evaluate the impact on women and children, particularly in rural areas, of the far-reaching changes taking place in the country. Finally, she would like to know more about the duties and powers of the State Council, pointing out that paragraphs 8 and 9 of the report referred to two other bodies responsible for questions relating to women and children.

35. Mr. HAMMARBERG said he wished to express the Committee's appreciation for the remarkable progress made in China in reducing child mortality rates, combating malnutrition and providing schooling for children, even though the Committee would be focusing its attention on questions which still posed problems.

36. Mrs. EUFEMIO, noting that the national plan of action did not contain any provisions on the family, the civil rights and freedoms of children or children in difficulties, asked whether there were any plans to make improvements in it. She also wished to have details on the way in which coordination between central government and local authorities was organized in order to monitor the implementation of the Convention.

The meeting was suspended at 11.45 a.m. and resumed at 12.10 p.m.

37. Mr. WU Jianmin (China), in reply to the questions on the State Council Committee, said that it was chaired by a member of the State Council, who ranked higher than a minister in the Chinese system. It would be wrong to think that the Committee had only an advisory role, when in fact it was a

deliberative coordinating body within the central Government. The State Council Committee had an extremely important role, and its decisions were carried through at provincial, county and municipal level by similar bodies.

38. Ms. WANG Fenglan (China) added that the members of the State Council Committee were drawn from 16 ministries, as well as from the chairmen or vice-chairmen of four NGOs.

39. Ms. ZHANG Honghong (China) explained that China had made a declaration, rather than a reservation in the strict sense of word, on article 6 of the Convention, and added that during the drafting of the Convention the Chinese Government had repeatedly stated that it was doing everything in its power to ensure that children enjoyed the right to life, development and happiness and that the health of the mother before childbirth was carefully monitored by the family planning services. China faced a problem of over-population which threatened to impede the economic and social development of the country. For that reason, measures had been taken to ensure both the welfare of Chinese citizens and respect for China's obligations as a State party to the Convention.

40. Ms. LI Bing (China) said that the people's courts were not appointed by the Government, but with the approval of Congress. They were therefore responsible to Congress, which monitored and controlled them, but were not subject in any way to control by administrative or social organs or individuals, as prescribed by the Organization of the People's Courts Act and the Code of Criminal Procedure.

41. Mr. WU Jianmin (China) emphasized that the judicial system was, quite rightly, accountable to the legislature, and not to the executive, as some members of the Committee seemed to think.

42. The CHAIRPERSON asked the Chinese delegation to reply to the question on the Programme Outline for the development of China's children, since at first sight China's written replies did not appear to refer to support for families or help for children in difficult circumstances. She also asked the delegation to answer the question on the procedures for disseminating information on the Convention, particularly in remote areas of the country.

43. Ms. CAI Sheng (China), in reply to the first of those questions, said that the Programme Outline for the development of China's children had been drawn up after the World Summit for Children and it took into account the conclusions of the Summit. The Programme Outline spelt out in detail the targets for the development of the child and the protection of children's rights and provided for the participation of parents and communities, whose involvement was vital to every aspect of the protection of children. The various media and some seminars, as well as some NGOs including the Federation of Chinese Women, had publicized the contents of the Programme Outline.

44. Mrs. SANTOS PAIS asked the Chinese delegation to specify which text from the Convention or from domestic law served as a reference, particularly for the courts and for those in charge of the training of magistrates. She wished to know whether a study had been carried out to compare the provisions of Chinese legislation with those of the Convention, whether any steps had been

taken to rectify discrepancies in the application of the law as between rural and urban areas and as between regions inhabited by the majority and those inhabited by minorities, and how the independence of the judicial system was guaranteed. On the latter point, she asked the delegation to indicate who nominated judges, what training they received, what objective criteria existed to guarantee that they were not subject to political influences, how it was ensured that they were able to make completely independent decisions on the legality of the incarceration of a young person, and what their position was in the social hierarchy.

45. Lastly, she asked whether a child who was not a Chinese citizen, such as an asylum-seeker, refugee or stateless child, enjoyed the same protection as other children.

46. Mr. HAMMARBERG said that in his opinion China's declaration on the implementation of article 6 of the Convention, to be found in document CRC/C/2/Rev.4, was actually a reservation, in form as well as in substance. The Chinese Government should therefore take steps in due course to "adjust" that declaration, as its present wording could lead to confusion as to the nature of China's family planning policy. Emphasizing that article 6 of the Convention did not concern abortion, he asked where the incompatibility arose between the Chinese family planning policy and the provisions of article 6.

47. There was still one point to be clarified with respect to the State Council Committee on Women and Children, and that was whether a body with responsibility for such important tasks could only be accountable to itself. It would seem better for it to be monitored by a body specially set up for that purpose.

48. Miss MASON said that the replies of the Chinese delegation had not alleviated her concerns on guarantees for the protection of the rights of minorities. She wished to know whether the Convention had been discussed among the communities living in the most remote areas of the country and among the most disadvantaged strata of society, and whether issues such as possible conflicts between certain principles laid down in the Convention and certain traditions had been tackled. She considered that to leave people in ignorance of their rights amounted to a form of repression.

49. Mr. LIU Xinsheng (China) pointed out that China had passed its legislation on children in 1992, after the date of ratification of the Convention. China had clearly drawn inspiration from the latter in drafting its laws in that area, and since then had been carrying out an ongoing comparison between the provisions it had passed and those of the Convention. China observed the principle of non-discrimination, which was explicitly stated in the Constitution and the law, and education was provided in at least 11 of the languages spoken by the largest minorities.

50. The Convention was disseminated at the same time as the country's laws, according to the five-year plans. The provisions on the protection of mother and child were given high priority, as were those in the Convention against Torture, which had been distributed to prison officers.

51. The CHAIRPERSON invited the Chinese delegation to reply to question 10 of the list of issues, on the definition of the child.

52. Mr. WU Jianmin (China) told the Committee that the State Council had prohibited child labour in April 1991, while specifying that authorization was needed from the relevant employment administration agency for the recruitment of artists, athletes or apprentices under the age of 16. The definition of artists, athletes and apprentices recruited in that way had to be approved by the appropriate agencies of the State Council, and all steps had to be taken to protect the mental and physical health of the children, as well as to ensure that they received the education to which they were entitled under the law.

53. Mrs. SANTOS PAIS said she wished to focus on the difference between the age of consent for boys, which was 22, and for girls, which was 20, despite the fact that the Committee did not usually deal with questions concerning people over the age of 18. She was surprised at the difference since, according to China's report and the delegation's oral statement, domestic legislation was in total conformity with the provisions of the Convention. She also noted the reference in the report to early marriages and the many unregistered marriages in poor regions. It seemed that the practice was at variance with the law, and that girls did not perhaps enjoy the same degree of protection as boys. She would like the Chinese delegation to clarify that point.

The meeting rose at 1 p.m.